

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION**

PATRICIA WHITFIELD

PLAINTIFF

v.

CIVIL ACTION NO. 3:18-cv-377-DPJ-FKB

**FT471, LLC d/b/a FUEL TIME (Brandon);
FUEL TIME, LLC d/b/a FUEL TIME
(Brandon); TIME SAVER 4, LLC d/b/a
MARATHON GAS STATION; JABA, LLC
d/b/a FUEL TIME #10 (Gluckstadt); BEDI
THIND BEDI, LLC d/b/a TIME SAVER
a/k/a EXXON 221 (Clinton); BEDI
INVESTMENTS; RAVINDER SINGH
BEDI; SATVINDER SINGH BEDI;
SONYA BEDI; NAVJOT S. THIND; AND
SUKHDEV S. BEDI**

DEFENDANTS

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §§ 1331, 1367, 1441, and 1446, and with full reservation of any and all rights, defenses, and objections, Defendant Fuel Time, LLC d/b/a Fuel Time (Brandon) and Defendant Bedi Thind Bedi, LLC d/b/a Time Saver a/k/a Exxon 221 (Clinton) (collectively, “Removing Defendants”) remove this action from the Circuit Court of the First Judicial District of Hinds County, Mississippi.

1. This action is filed under the Fair Labor Standards Act (“FLSA”). (Amended Complaint, Exhibit 1, ¶¶ 1, 45-53.) Plaintiff also alleges claims of FLSA retaliation (*id.*, ¶¶ 54-63), as well as state law claims of unjust enrichment (*id.*, ¶¶ 41-44), wrongful termination (*id.*, ¶¶ 64-65), and intentional infliction of emotional distress (*id.*, ¶¶ 66-69). Plaintiff’s allegations are denied, and it is further denied that she is entitled to any relief whatsoever.

2. Plaintiff initially filed this action on June 3, 2016. At the time, Plaintiff named as a defendant the following individuals and entities:

- i. FT 471, LLC;
- ii. Fuel Time #10;
- iii. Time Saver 4, LLC;
- iv. Bedi Investments;
- v. Marathon Gas Station;
- vi. JABA, LLC;
- vii. Ravinder S. Bedi;
- viii. Satvinder S. Bedi;
- ix. Navjot S. Thind;
- x. Sukhdev S. Bedi; and
- xi. Sonya Bedi, misnamed as Sonja Bedi.

Plaintiff then attempted to effect service on each. Those attempts were staggered and convoluted. In turn, objections were raised to both the sufficiency of summons and the properness of service. The state court decided the last of the objections in January 2018. By that time, Plaintiff had obtained default against some but not all of the then-named defendants. In response, the defaulted defendants moved the state court to set aside the defaults. The non-defaulted defendants joined in that request.

3. On April 20, 2018, a joint stipulation was entered into and filed with the state court. In relevant part, the Joint Stipulation set aside all defaults and served as written consent for Plaintiff to file an amended complaint. (Joint Stipulation, Exhibit 2, ¶¶ 1, 2.)

4. On June 6, 2018, Plaintiff filed the Amended Complaint. The Amended Complaint added Removing Defendants, who had never before been named as defendants (or otherwise been defendants) in this action. Removing Defendants have not yet been served with the Amended Complaint. Notwithstanding, with this Notice, Removing Defendants timely remove this action to this Court.¹

5. An action shall be removable if a federal court has original jurisdiction over it.² A federal court has original jurisdiction under two circumstances: (1) where the controversy involves a “federal question;” or (2) where the amount in controversy exceeds \$75,000, and there is diversity of citizenship between the parties.³

6. Here, this Court has original federal question jurisdiction over this action. Plaintiff alleges a controversy arising out of federal law, specifically, the FLSA. This gives the Court original federal question jurisdiction, and this action is removable.⁴

7. Plaintiff’s state law claims may be disregarded for the purposes of removal because the claims are preempted by the FLSA⁵ or otherwise fail as a matter of law. Therefore, they are claims upon which relief cannot be granted.⁶ Alternatively, the Court can exercise

¹ See 28 U.S.C. § 1446(b)(1) (setting thirty-day removal period); *Lee v. Pineapple Mgmt. Servs., Inc.*, 241 F. Supp. 2d 690, 693 (S.D. Miss. 2002) (only proper service starts the thirty-day removal period; simply receiving a copy of the complaint does not); see also *id.*, n.6 (collecting cases); *Addison v. First Family Fin. Servs., Inc.*, 2006 WL 1307948, at *1 (S.D. Miss. May 10, 2006) (“[A] notice of removal filed after the complaint, but before service of the complaint, is not premature but rather timely.” (relying on *Delgado v. Shell Oil Co.*, 231 F.3d 165, 177 (5th Cir. 2000))).

² 28 U.S.C. § 1441(b).

³ 28 U.S.C. §§ 1331, 1332.

⁴ 28 U.S.C. §§ 1331, 1441, 1446.

⁵ *Fountain v. Big River Lumber Co. LLC*, 2017 WL 4364414, at *3 (S.D. Miss. Sept. 29, 2017) (dismissing state law claim because “not independent” from FLSA claim) (collecting cases).

⁶ Cf. *Burchfield v. Foremost Ins. Grp.*, 2017 WL 1167278, at *3 (N.D. Miss. Mar. 28, 2017) (discussing the Rule 12(b)(6)-type analysis for fraudulent joinder).

supplemental jurisdiction over the claims,⁷ and Removing Defendants respectfully request that it does.

8. The Circuit Court of the First Judicial District of Hinds County, Mississippi is a state court within this District and Division; therefore, venue is proper.⁸

9. The Amended Complaint additionally names as defendants the following individuals and entities:

- i. FT471, LLC d/b/a Fuel Time (Brandon);
- ii. Time Saver 4, LLC d/b/a Marathon Gas Station;
- iii. JABA, LLC d/b/a Fuel Time #10 (Gluckstadt);
- iv. Bedi Investments;
- v. Ravinder S. Bedi;
- vi. Satvinder S. Bedi;
- vii. Navjot S. Thind;
- viii. Sukhdev S. Bedi; and
- ix. Sonya Bedi.

(collectively, “Consenting Defendants”). With full reservation of any and all rights, defenses, and objections, Consenting Defenses unconditionally consent to and join in this removal,⁹ as evidenced by the Consent to and Joinder in Removal attached as Exhibit 3, which will be separately filed after the Clerk opens the Docket.

⁷ 28 U.S.C. § 1367(a).

⁸ 28 U.S.C. § 1441(a).

⁹ 28 U.S.C. §§ 1446(b)(2)(A)-(C).

10. Plaintiff, through her attorney, will be given written notice of the removal, as evidenced by the Certificate of Service, and a copy of this Notice will be filed with the Circuit Court of Hinds County.¹⁰

11. As Removing Defendants have not yet been served, they have no service papers to attach.¹¹

12. Removing Defendants were unable to practicably obtain a copy of the entire state court record by the date of removal.¹² Within fourteen days, Removing Defendants will electronically file the entire state court record as a single filing.¹³

For the foregoing reasons, Removing Defendants respectfully request that this action proceed in this Court as an action properly removed. Removing Defendants request any additional relief this Court deems warranted by the circumstances.

This, the 8th day of June, 2018.

Respectfully submitted,

**FUEL TIME, LLC d/b/a FUEL TIME
(Brandon); BEDI THIND BEDI, LLC
d/b/a TIME SAVER a/k/a EXXON 221
(Clinton)**

By their Attorneys,

**BAKER, DONELSON, BEARMAN,
CALDWELL & BERKOWITZ, PC**

By: /s/ Zachary B. Busey
ZACHARY B. BUSEY

¹⁰ See 28 U.S.C. § 1446(d).

¹¹ See L.U. Civ. R. 5(b), (c); see also Admin. Ps. for Elec. Case Filing, Section 3.B.2.

¹² *Id.*

¹³ *Id.*

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CERTIFICATE OF SERVICE

I hereby certify that on this day I severed a copy of the foregoing pleading or other document via electronic mail on the following:

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Attorneys for Plaintiff

This, the 8th day of June, 2018.

/s/ Zachary B. Busey
ZACHARY B. BUSEY